



455976

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2019	.	
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The Committee on Rules (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 220 - 277
and insert:
equipment was on the job site and available for use. A notice of nonpayment that includes sums for retainage must specify the portion of the amount claimed for retainage. The required.~~A written~~ notice satisfies this condition precedent with respect to the payment described in the notice of nonpayment, including unpaid finance charges due under the lienor's contract, and with respect to any other payments which become due to the lienor



455976

12 after the date of the notice of nonpayment. The time period for
13 serving a ~~written~~ notice of nonpayment shall be measured from
14 the last day of furnishing labor, services, or materials by the
15 lienor and may ~~shall~~ not be measured by other standards, such as
16 the issuance of a certificate of occupancy or the issuance of a
17 certificate of substantial completion. The failure of a lienor
18 to receive retainage sums not in excess of 10 percent of the
19 value of labor, services, or materials furnished by the lienor
20 is not considered a nonpayment requiring the service of the
21 notice provided under this paragraph. If the payment bond is not
22 recorded before commencement of construction, the time period
23 for the lienor to serve a notice of nonpayment may at the option
24 of the lienor be calculated from the date specified in this
25 section or the date the lienor is served a copy of the bond.
26 However, the limitation period for commencement of an action on
27 the payment bond as established in paragraph (e) may not be
28 expanded. The negligent inclusion or omission of any information
29 in the notice of nonpayment that has not prejudiced the
30 contractor or surety does not constitute a default that operates
31 to defeat an otherwise valid bond claim. A lienor who serves a
32 fraudulent notice of nonpayment forfeits his or her rights under
33 the bond. A notice of nonpayment is fraudulent if the lienor has
34 willfully exaggerated the amount unpaid, willfully included a
35 claim for work not performed or materials not furnished for the
36 subject improvement, or prepared the notice with such willful
37 and gross negligence as to amount to a willful exaggeration.
38 However, a minor mistake or error in a notice of nonpayment, or
39 a good faith dispute as to the amount unpaid, does not
40 constitute a willful exaggeration that operates to defeat an



455976

41 otherwise valid claim against the bond. The service of a
42 fraudulent notice of nonpayment is a complete defense to the
43 lienor's claim against the bond. The notice under this paragraph
44 must supply the following information, current as of the date of
45 the notice, and must ~~may~~ be in substantially the following form:

46
47 NOTICE OF NONPAYMENT

48
49 To ...(name of contractor and address)...

50 ...(name of surety and address)...

51 The undersigned lienor notifies you that:

52 1. The lienor ~~he or she~~ has furnished ... (describe labor,
53 services, or materials) ... for the improvement of the real
54 property identified as ... (property description) The
55 corresponding amount ~~now due and unpaid to date~~ is \$...., of
56 which \$ is unpaid retainage.

57 2. The lienor has been paid to date the amount

58
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete lines 22 - 23

62 and insert:

63 period of time; specifying that certain